

Electronically Filed

DECLARATION UNDER 37 C.F.R. §1.132 Address to: Mail Stop Amendment Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450	Attorney Docket No.	STAN-303
	Confirmation No.	1490
	First Named Inventor	MONJE, MICHELLE L.
	Application Number	10/826,472
	Filing Date	April 16, 2004
	Group Art Unit	1649
	Examiner Name	Dutt, Aditi
	Title:	"PREVENTION OF DEFICITS IN NEUROGENESIS WITH ANTI- INFLAMMATORY AGENTS"

DECLARATION UNDER 37 C.F.R. §1.132; AND MPEP 716.10

Sir:

I, Dr. Theo Palmer, do hereby declare as follows:

Dr. Michelle Monje and I are the sole inventors of the above-captioned patent application.

I have read and understood the Office Action of June 10, 2009. The presently pending claims have been rejected under 35 U.S.C. 103(a) as being allegedly unpatentable over combinations of references, including the citation of Monje et al. (Nat Med 8: 95-962, 2002).

Dr. Monje and I are co-authors of the research publication by Monje et al. (2002) "Irradiation induces neural precursor-cell dysfunction" Nature Medicine 8(9):955-962. The published article was a description of the invention conceived by Dr. Monje and myself, and as such, is not a publication by another. The article lists as co-authors Shinichiro Mizumatsu and John R. Fike, who are not named as co-Inventors.

As set forth by the court in *In re Katz*, 215 U.S.P.Q. 14; and MPEP §715.01(c), authorship of an article by itself does not raise a presumption of inventorship with respect to the subject matter disclosed in the article. Thus, coauthors may not be presumed to be coinventors merely from the fact of coauthorship.

The conceptualization of these experiments and the formulation of the invention were the sole work of Dr. Monje and myself. Shinichiro Mizumatsu and John R. Fike provided expertise and technical assistance on the method used to irradiate the rat brain. They did not intellectually or materially contribute to any of the experiments or data related to neurogenesis or inflammation. These two co-authors did not contribute to the conception of the invention, and thus did not make an inventive contribution to the subject matter claimed in the present application.

I hereby declare that all statements made herein of my own knowledge are true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,

Date: Sept. 4, 2009

By 

Theo D. Palmer, Ph.D.